

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN HANCOCK LIFE INSURANCE
COMPANY, JOHN HANCOCK
VARIABLE LIFE INSURANCE
COMPANY, and INVESTORS
PARTNER LIFE INSURANCE
COMPANY,

Plaintiffs,

v.

ABBOTT LABORATORIES,

Defendant.

Civil Action No. 03 CV 12501DPW

Hon. Judge Douglas P. Woodlock

ABBOTT LABORATORIES' MOTION FOR SUMMARY JUDGMENT
AND REQUEST FOR ORAL ARGUMENT

Pursuant to FED. R. CIV. P. 56 and Local Rule 56.1, Defendant and Counter-Plaintiff Abbott Laboratories ("Abbott") hereby moves for summary judgment in favor of Abbott and against John Hancock Life Insurance Company, John Hancock Variable Life Insurance Company, and Investors Partner Life Insurance Company ("Hancock") on all counts of Hancock's complaint in this action, and for summary judgment in favor of Abbott and against Hancock on all counts of Abbott's counterclaim in this action. Abbott submits there is no genuine issue of material fact to be tried in this action and that Abbott is entitled to a judgment as a matter of law: (1) declaring that Hancock's remaining program payments have not terminated, and (2) granting judgment to Abbott with respect to Hancock's third program payment. In support of its motion, Abbott relies on Abbott Laboratories' Memorandum In Support Of Its Motion For Summary Judgment, Abbott Laboratories' Statement Of Facts Pursuant To Local

Rule 56.1 In Support Of Its Motion For Summary Judgment, and the Affidavit Of Kathleen B. Barry In Support Of Defendant Abbott Laboratories' Motion For Summary Judgment.

REQUEST FOR ORAL ARGUMENT

Abbott respectfully asks for oral argument on its Motion on the earliest date convenient for the Court. A scheduling/status conference is presently set for October 14, 2004.

Respectfully submitted,

ABBOTT LABORATORIES

By: /s/ Michael S. D'Orsi
One Of Its Attorneys

Peter E. Gelhaar, Esq., (BBO# 188310)
Michael S. D'Orsi, Esq., (BBO# 566960)
DONNELLY, CONROY & GELHAAR, LLP
1 Beacon Street, 33rd Floor
Boston, Massachusetts 02108
(617) 720-2880

Lawrence R. Desideri, Esq., (admitted *pro hac vice*)
Stephen V. D'Amore, (admitted *pro hac vice*)
Kathleen B. Barry, (admitted *pro hac vice*)
WINSTON & STRAWN LLP
35 West Wacker Drive
Chicago, Illinois 60601
(312) 558-5600

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(A)(2)

The undersigned hereby certifies he has conferred with counsel for John Hancock Life Insurance Company, John Hancock Variable Life Insurance Company, and Investors Partner Life Insurance Company and attempted in good faith to resolve or narrow the issues presented by this Motion.

/s/Michael S. D'Orsi
Michael S. D'Orsi

Dated: September 29, 2004